

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE,

v.

NAHKEEM WATSON,

Defendant.

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I.D. Nos.    1104009086  
                  1103012722  
                  1107010471

**ORDER**

**AND NOW TO WIT**, this 5th day of February 2020, upon consideration of Nahkeem Watson’s (“Defendant”) Motion for Modification/ Reduction of Sentence, the sentence imposed upon the Defendant, and the record in this case, it appears to the Court that:

1.     On October 11, 2013, Defendant pleaded guilty to one count of Possession of a Firearm during the Commission of a Felony (“PFDCF”), one count of Possession with Intent to Deliver Cocaine (“PWID-Cocaine”), and one count of Assault in a Detention Facility.<sup>1</sup> On January 17, 2014, Defendant was sentenced as follows: (1) For the PFDCF charge, three years at Level V; (2) for the PWID-Cocaine charge, five years at Level V, suspended for two years at Level IV DOC

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<sup>1</sup> See Case Review Plea Hearing: Pled Guilty/ PSI Ordered, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 41 (Del. Super. Ct. Oct. 11, 2013).

Discretion, suspended after six months at Level IV DOC Discretion, for eighteen months at Level III; and (3) For the Assault charge, two years at Level V.<sup>2</sup>

2. Since then, Defendant has been found in Violation of Probation two times.<sup>3</sup> In March 2018, after finding Defendant to be in Violation of Probation, this Court sentenced Defendant to four years and one hundred and seventy-nine days at Level V, suspended after six months at Level V, no probation to follow.<sup>4</sup>

3. On November 13, 2019, Defendant filed this, his third,<sup>5</sup> Motion for Modification/ Reduction of Sentence under Superior Court Criminal Rule 35(b).<sup>6</sup> In his motion, Defendant requests that this Court modify his Level V sentence, so as to account for “good time” or to run his Level V sentences consecutively.<sup>7</sup> In support of his motion, Defendant states the following grounds for relief: (1) “Rehabilitation/

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<sup>2</sup> Sentencing Calendar: Defendant Sentenced by J. Jane M. Brady, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 42 (Del. Super. Ct. Jan. 17, 2014).

<sup>3</sup> See Violation of Probation Hearing: Defendant Found in Violation. Sentenced by J. Paul R. Wallace, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 67 (Del. Super. Ct. July 12, 2016); see also Violation of Probation Hearing: Defendant Found in Violation. Sentenced by this Court, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 75 (Del. Super. Ct. Mar. 9, 2019).

<sup>4</sup> Sentence: ASOP VOP Order Signed, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 76 (Del. Super. Ct. Mar. 9, 2019).

<sup>5</sup> Defendant filed two previous Motions for Modification/ Reduction of Sentence. See Defendant’s Motion for Reduction of Sentence, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 46 (Del. Super. Ct. July 28, 2014); see also Defendant’s Motion for Reduction of Sentence, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 55 (Del. Super. Ct. May 21, 2015).

<sup>6</sup> Defendant’s Motion for Modification/ Reduction of Sentence, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 78 (Del. Super. Ct. Nov. 13, 2019) [hereinafter “Def.’s Mot.”]; see SUPER. CT. CRIM. R. 35(b).

<sup>7</sup> See Def.’s Mot. at page 3.

Program Participation” – Defendant contends that he has voluntarily enrolled in these programs that will “save [him] from coming back to jail[;]” (2) “Family Support/ Family Hardship” – Defendant asserts that he is in fear of “retaliation” in regards to “gang” violence, both in regards to his time incarcerated and time outside; (3) “Self Growth/ Employment” – Defendant claims to have a job opportunity ready for him upon release.<sup>8</sup>

4. Under Superior Court Criminal Rule 35(b), the Court may reduce a sentence of imprisonment on a motion made within ninety days after the sentence is imposed.<sup>9</sup> Defendant is time-barred. In order to overcome the ninety-day time bar in Rule 35(b), Defendant must show that “extraordinary circumstances”<sup>10</sup> forgive the tardiness of his Motion.<sup>11</sup> This exception is not a plea for leniency nor does it permit “exceptional rehabilitation” to suffice for “extraordinary circumstances.”<sup>12</sup> This Court does not find that Defendant has raised any “extraordinary circumstances” to overcome this bar.

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<sup>8</sup> Def.’s Mot. at page 2.

<sup>9</sup> SUPER. CT. CRIM. R. 35(b).

<sup>10</sup> The Delaware Supreme Court has defined “extraordinary circumstances” as circumstances which: “‘specifically justify the delay;’ are ‘entirely beyond a petitioner’s control;’ and ‘have prevented the applicant from seeking the remedy on a timely basis.’” *State v. Diaz*, 113 A.3d 1081, 2015 WL 1741768, at \*2 (Del. 2015) (TABLE) (quoting *State v. Lewis*, 797 A.2d 1198, 1203, 1205 (Del. 2002) (Steele, C.J., dissenting)).

<sup>11</sup> See *Colon v. State*, 900 A.2d 635, 638 (Del. 2006).

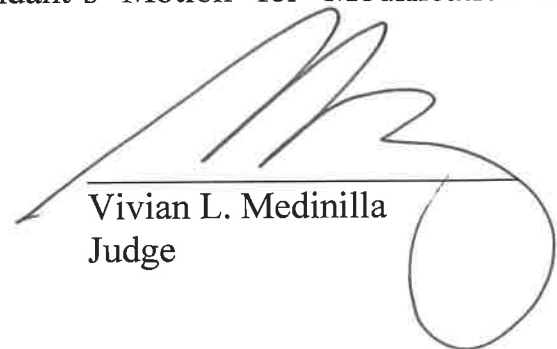
<sup>12</sup> See *Morrison v. State*, 846 A.2d 238, 2004 WL 716773, at \*1–2 (Del. 2004) (TABLE).

5. Additionally, Superior Court Criminal Rule 35(b) also provides that “[t]he court *will not* consider repetitive requests for reduction of sentence.”<sup>13</sup> A motion is considered repetitive when it “is preceded by an earlier Rule 35(b) motion, even if the subsequent motion raises new arguments.”<sup>14</sup> The bar to repetitive motions has no exception. It is absolute and flatly “prohibits repetitive requests for reduction of sentence.”<sup>15</sup> Defendant’s first two Motions for Modification/ Reduction of Sentence were previously denied.<sup>16</sup> Therefore, this third Rule 35(b) motion is also barred as repetitive.

6. As such, Defendant’s Level V sentence is and remains appropriate for all the reasons stated at the time of sentencing.

**IT IS SO ORDERED** that Defendant’s Motion for Modification is **DENIED**.

oc: Prothonotary  
cc: Department of Justice  
Investigative Services  
Defendant



Vivian L. Medinilla  
Judge

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<sup>13</sup> SUPER. CT. CRIM. R. 35(b) (emphasis added).

<sup>14</sup> *State v. Culp*, 152 A.3d 141, 144 (Del. 2016).

<sup>15</sup> *Thomas v. State*, 2002 WL 31681804, at \*1 (Del. 2002). *See also Jenkins v. State*, 2008 WL 2721536, at \*1 (Del. 2008) (Rule 35(b) “prohibits the filing of repetitive sentence reduction motions.”); *Morrison*, 2004 WL 716773, at \*2 (defendant’s “motion was repetitive, which also precluded its consideration by the Superior Court.”).

<sup>16</sup> *See* Order Denying Motion for Reduction of Sentence by J. Jane M. Brady, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 47 (Del. Super. Ct. Nov. 13, 2014); *see also* Order Denying Motion for Reduction of Sentence by J. Paul R. Wallace, *State of Delaware v. Nahkeem Watson*, Crim. ID No. 1104009086, D.I. 57 (Del. Super. Ct. June 8, 2015).